

### **REMARKS/ARGUMENTS**

The application now contains claims 14-33. Independent claim 14 and dependent claims 15-26 have been amended to clarify the Applicants' invention. New claims 27-33 have been added to further define the Applicants' invention. In view of the foregoing amendments and following remarks, Applicants respectfully request allowance of the application.

The term "centre" has been amended to read "center" as on page 8 line 29 in the specification to be consistent throughout the specification.

### **Objection under 37 CFR 1.75(c)**

Multiply dependent claims 7-13 have been cancelled. The dependencies of claims 20-26 have been corrected to comply with 37 CFR 1.75(c).

### **Rejection under 35 U.S.C 112 second paragraph**

The rejection under 35 U.S.C. 112, second paragraph, to claims 1-6 and 14-19 as being indefinite has been addressed by the cancellation and amendments made to the claims. Claims 1-6 have been cancelled and claims 14 and 19 have been amended to address the antecedent issues identified in claim 14 and to clarify subject matter of claim 19.

### **Rejection under 35 U.S.C. 102(b)**

Applicants invention provides a portable cylinder holder for carrying one or two cylinders in a secure manner. The *"frame is designed so that one or two cylinders (102) can be placed inside the holder in compartments (111) located on either side of a handle (103)."* (page 6 lines 6 to 9) The *"...compartments (111) enclose the cylinders so that they can only be accessed from the top when the handle is in an open or unlocked position (105), with the cylinder oriented so that the valves (107) are upright."* (page 6 lines 9 to 12) *"The cylinders are inserted via the top the holder*

*into compartments formed in the frame (101). The cylinders are secured by rotation of a handle from an open (105) position to a closed position located between the compartments. The handle acts as "a barrier to stop the cylinders from being removed from the compartments by making contact with the top of the cylinder (at point 106) thereby restricting their movement"* (page 6 lines 14 to 17). The handle also enables the user to conveniently carry the cylinder holder.

Claims 1-6 and 14-19 have been rejected under 35 U.S.C. 102(b) as being anticipated by Gould (3,302,368). Claims 1-13 have been cancelled rendering the rejection to those claims moot. Applicants submit that amended claims 14-19 are not anticipated by Gould on the basis of the following comments.

The examiner asserts that *"Gould teaches a portable cylinder holder including frame means 9+ defining a compartment as broadly claimed and handle means (e.g. 20, 26, 31+) rotatable between a closed retaining position (e.g. see horizontal position of element 20 in figure 2) and an open position."* (page 3 point 5)

Applicants submit that Gould discloses a pallet suitable for supporting and transporting gas cylinders including a baseplate for supporting the cylinders and, on top of this, baseplate, a pair of tunnels for receiving the tines of a forklift truck plus a pair of upstanding frameworks at respective opposite side of the plate, for stabilizing the upper ends of the elongated articles (see abstract). The "handle means" claimed in Gould, which is defined as "bars" (e.g. 20, 26, 31+), *"...when in their active positions serve to restrain movement of the cylinders 13 in the direction parallel to the length of tunnels 2 and 3, serve to restrain movement of the cylinders 13 in a direction perpendicular to the lengths of the tunnels. Bar 20, 26, 31, and 36, when not being used, and thus not in their horizontal, active positions between the gas cylinders, may be swung vertical. Out of the way positions..."* (col 3. lines 57 to 66).

Contrary to the examiner's statement that all the elements and limitations are disclosed by Gould, at least the following structural differences are not provided, for example the positioning of the handle means inside the frame and in between the compartments is not disclosed. In addition, the handle means facilitating ease of transportation or the use of the handle means to restrict vertical movement of the

cylinders within the carrier is not disclosed. Therefore, the rejection is unsupported by the art and should be withdrawn.

Claims 14-18 have been alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Williams (3.907,117). Applicant submits that amended claims 14-18 are not anticipated by Williams on the basis of the following comments.

The examiner asserts that "...Williams teaches a portable cylinder holder including frame means 34+ defining a compartments as broadly claimed and a rotatable handle means 40+ located and operable as broadly claimed." (page 4 lines 1 to 3)

Applicants submit that Williams discloses an elongated wheeled rack or cart with means to support a plurality of containers such as garbage cans and the like. Upright members at the ends of the rack support a generally U-pivoted hold down bar for container lids. The hold down bar is manually lifted to permit intentional access to the containers, in particular garbage cans. (see abstract and Fig. 1) The hold down-bar extends across the length of the frame of the mobile rack. "Extending between the upper post 28 and the arch frame is an elongated can-lid hold down bar 40 which at one end has rigid arm or link 42 secured to post 28 by pivot 44, and arm or link 46 at the other end secured medially to bar 24 of arch frame by pivot 48. Stop means to maintain the hold down bar in the upper inoperable position shown in Fig. 3 may comprise the lug 50 instanding from bar 24." (Col. 1 lines 57 to 64)

Contrary to the examiner's statement that all the elements and limitations are disclosed by Williams, at least the following structural differences are not provided, for example the positioning of the handle means between individual compartments containing cylinders is not disclosed. In addition, the handle means does not facilitate ease of transportation by enabling the user to lift the carrier by the means. Therefore, the rejection is unsupported by the art and should be withdrawn.

In summary, as discussed above, the Gould or Williams do not teach the elements of the Applicants invention found in the independent claim 14 of the present application. Similarly, dependent claims 15 to 26 should also be allowed. Accordingly,

Applicants respectfully request that the rejection under 35 U.S.C. 102(b) be withdrawn.

The Applicants submit that the amendments to independent claims 14 and dependent claims 15 to 26, while not altering the scope of the present application provide additional clarity in this matter. Claim 14 has been amended to clarify that the frame forms two compartments, each for holding one cylinder inserted into the compartment through openings in the top of the frame. The means provides for engaging cylinders within the compartments and for facilitating lifting of the frame by a user and is positioned inside said frame and in between the compartments. The means is operable between an open position and a closed position. When the means is in the open position, cylinders can be inserted or removed from the compartments. When the means is in the closed position, cylinders inserted within said compartments are secured within the portable holder as supported by the specification (see Fig. 1 and page 6 line 3 to page 7 line 14). Dependent claims 15 to 26 have been amended to reflect the changes made in independent claim 14 and to ensure consistency.

New claims independent claim 27, and dependent claims 28-33 have been added. Claims 27 expands on the frame, shaft, grasping portion and locking mechanism in more detail as supported by Fig.1 and the associate description on pages 6 lines 3 to page 7 line 14. Dependent claims 28-33 present subject matter similar to claims 14 to 26. The Applicants also submit that new claims 27-33 should similarly present patentable subject matter and should be allowed.

### **CONCLUSION**

Applicants respectfully submit that the present application is in condition for allowance and requests that a timely Notice of Allowance be issued in this case.

The prior art made of record, but not specifically cited, is not believed to disclose any significant information that is not sufficiently discussed in this Amendment.

Respectfully submitted,



by Mark J. Sprigings  
Reg. No. 56,626  
File No. 48941-A  
May 16, 2005

---

Kirby Eades Gale Baker  
PO Box 3432 Station D  
Ottawa, Ontario  
Canada K1P 6N9  
Phone: 613-237-6900  
Fax: 613-237-0045